

Notice of Allowability

Application No.

10/633,604

Examiner

Vinh T. Luong

Applicant(s)

MENALDO ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/20/06.
2. ☒ The allowed claim(s) is/are 1-13 and 15.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20060925.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____



Vinh T. Luong
Primary Examiner

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1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 27, 2006 has been entered.

2. The restriction requirement on January 19, 2006 and the election of Group I without traverse on March 3, 2006 in the parent application are carried over to the instant RCE application.

3. Claims 16-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 3, 2006.

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

5. Authorization for this examiner's amendment was given in a telephone interview with Mr. Lonnie R. Drayer on September 25, 2006.

Cancel claims 16-22.

6. The following is an examiner's statement of reasons for allowance: the claims are allowed due to the following limitations in claims 1 and 15:

(a) a base structure (2); and

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(b) at least one covering element (9 and 10) formed as a subassembly and then applied onto said base structure (2), wherein said covering element (9 and 10) comprises:

(i) at least one internal structural layer (9) comprising a thermoplastic material containing reinforcing fibers, the reinforcing fibers comprising 10 to 80% by weight of the internal structural layer (9) and wherein the fibers are at least 12.0 mm long and in the form of a mat or in a woven or non-woven fabric impregnated with the thermoplastic material, and

(ii) at least one external decorative layer (10) located on and bonded to a side of the internal structural layer (9) distal from said base structure (2) wherein melted thermoplastic material of the internal structural layer (9) penetrates pores of the external decorative layer (10) to bind the two layers (9 and 10) together in the absence of thermoset resin adhesives.

At the outset, the Examiner considers all words in Applicant's claims in judging the patentability of Applicant's claims against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) cited in MPEP 2143.03.

In the instant case, the closest prior art Cavalli (US Patent No. 6,52,515 B1) teaches: (a) a base 2; and (b) at least one covering element applied onto said base 2, wherein said covering element comprises: at least one internal layer 9, 10 comprising a thermoplastic material (polyester) containing reinforcing fibers (epoxy or melamine resin), and at least one external decorative layer 11, 12 located on a side of the internal layer 9, 10 distal from said base 2; and wherein the fibers are at least a certain mm long and in the form of a woven cloth impregnated with the thermoplastic material (melamine or epoxy resin). *Ibid.* col. 3, line 18 through col. 4, line 43, and claims 1-18.

However, Cavalli does not teach or suggest, *inter alia*, the following:

(a) to form the covering element 9-12 as a subassembly and then applied onto the base structure 2 as claimed. Cavalli teaches away from Applicant's claimed

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invention because Fig. 1 of Cavalli shows that Cavalli teaches to form only the external layer 11, 12 as a subassembly and then applied to the internal layer 9, 10 and the base 2;

(b) to select the reinforcing fibers such that the fibers comprise 10 to 80% by weight of the internal structural layer 9, 10 and the fibers are at least 12.0 mm long as claimed; and

(c) to melt the thermoplastic material of the internal structural layer 9, 10 such that the thermoplastic material penetrates the pores of the external decorative layer 11, 12 to bind the two layers 9-12 together in the absence of thermoset resin adhesives as claimed and described in paragraph [0031] of Applicant's specification.

MPEP 2113 states:

The structure implied by the process steps should be considered when assessing the patentability of product-by-process claims over the prior art, especially where the product can only be defined by the process steps by which the product is made, or where the manufacturing process steps would be expected to impart distinctive structural characteristics to the final product. See, e.g., *In re Garnero*, 412 F.2d 276, 279, 162 USPQ 221, 223 (CCPA 1979) (holding "*interbonded by interfusion*" to limit structure of the claimed composite and noting that terms such as "welded," "intermixed," "ground in place," "press fitted," and "etched" are capable of construction as structural limitations.) (Emphasis added)

In the case at hand, Applicant's manufacturing steps would be expected to impart distinctive structural characteristics to the final product, *i.e.*, the interbonding or interbinding of the internal structural layer with the external decorative layer as a subassembly without the use of thermoset resin adhesives. Therefore, the process steps recited in Applicant's "wherein" clause of claim 1 or 15 is accorded patentable weight.

In re Garnero, supra.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Hosokawa et al. (covering element 53 in Figs. 9 and 10).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Luong

September 25, 2006



Vinh T. Luong
Primary Examiner